IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NOS.12774, 12776 & 12793 OF 1995

WRIT PETITION NO : 12774 of 1995

Between:

The General Manager, Singareni Collieries Company Ltd.,
Bellampalli Adilabad District.

..... PETITIONER

AND

1. The Industrial Tribunal-I,
   Chandra Vihar, M.J. Road, Hyderabad,
   represented by its Presiding Officer.
2. The workmen of Singareni Collieries Company

Limited, represented by the Joint Secretary,
AP Collieries Mazaroor Sangh (INTUC),

Bellampalli, Dist : Adilabad (AP), 504 251,
for Sri Manjira Laxmaiah, Electrician.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction or writ particularly one in the nature of WRIT OF CERTIORARI after calling for the records from the first respondent in I.D.,NO.60 of 1989 and quash the Award passed therein dated 31.3.1994.

Counsel for the Petitioner: MR.K.SRINIVASAMURTHY

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: G.VIDYASAGAR

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WRIT PETITION NO : 12776 of 1995

Between:

The General Manager, Singareni Collieries Co., Ltd.,
Bellampalli, Adilabad Dist.

..... PETITIONER

AND

1. The Industrial Tribunal-I,
   Chandra Vihar, M.J.Road, Hyderabad,
   Represented by its Presiding offecer.
2. The Workmen of the Singareni Collleries Company

Limited represented by the Joint Sectretary, AP collieries
Mazdoor Sangh (INTUC) , Bellampalli-504 251,
Adilabad District for Pallem Mallaiah.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order, direction or writ particularly one in the nature of WRIT OF CERTIORARI after calling for the records room the first respondent in I.D.NO.58 of 1989 & quash the Award passed therein dated 31st March, 1994.

Counsel for the Petitioner: MR.K.SRINIVASAMURTHY

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: G.VIDYASAGAR

AND

WRIT PETITION NO : 12793 of 1995

Between:

The General Manager Singareni Collieries Co. Ltd.,
Bellampalli, Adilabad Dist

..... PETITIONER

AND

1. The Industrial Tribunal - I Chandra Vihar, M.J.Road,
   Hyderabad, rep.by its Presiding Officer
2. J.Rajam Ex.General Mazdoor,
   C.S.P. Shantikhani rep.by the Vice President,

A.P.Colliery Mazdoor Sangh
(INTUC), Bellampalli, -504 251 Adilabad Dist

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction or writ particularly one in the nature of writ of certiorari after calling for the records from the first respondent in ID.No.83 of 1989 and quash the award passed therein Dt.8th April 1994.

Counsel for the Petitioner: MR.K.SRINIVASAMURTHY

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: G.VIDYASAGAR

The Court made the following:

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COMMON ORDER:

In all these cases, a similar question falls for consideration. Therefore, all of them are clubbed and disposed of together by this common order.

The second respondent is the Union in all the three writ petitions raised an Industrial Dispute in respect of workmen under the petitioner-management. The workmen have joined the service on different dates and now retired from service. The respondent union had raised a dispute before the conciliation machinery questioning the termination of the services of the workmen without following Rule 3(iv) (vi) of Age Retirement Rules (for short the "Rules") by not referring their cases to the Age Determination Committee. On failure of conciliation, the matter was referred to the Central Government. The Government of India, Ministry of Labour through its different orders referred the following dispute under Section 10(1)(d)(2A) of the Industrial Disputes Act, 1947 between the Management of the Singareni Collieries Company Limited and their workmen to the Tribunal for adjudication:

W.P.No.12774 of 1995.

> "Whether the action of the management of M/s Singareni Collieries Co., Ltd., Bellampalli in terminating the services of Sri Manjiri Laxmaiah, Electrician, Boyapalli No.1 Incline w.e.f. 01-12-1987 without following the age retirement Rules 3(iv) and (vi) and not referring the case to the Age Determination

Committee is justified? If not, to what relief the workman concerned is entitled".

W.P.No.12776 of 1995.

"Whether the action of the management of M/s Singareni Collieries Co., Ltd., Bellampalli in terminating the services of Sri Pallem Mallaiah, Surface Trammer, MVK-2 Incline w.e.f. 01-15-1987 without following the age retirement Rules 3(iv) and (vi) and not referring the case to the Age Determination Committee is justified? If not, to what relief the workman concerned is entitled".

W.P.No.12793 of 1995.

"Whether the action of the management of M/s Singareni Collieries Co., Ltd., in terminating the services of Sri J.Rajam, without referring the case to the Age Determination Committee/Medical Board w.e.f
01-12-1988 is justified? If not, to what relief the workman concerned is entitled".

The substance of the respondent-workmen's claim was that though their age was recorded in their service books and other records relating to them at the time of joining the service, their age assessment was not done by the Medical Board or Medical Officer and their services were terminated illegally on different dates allegedly on their attaining age of superannuation. According to workmen, they are required to undergo medical examination as stipulated under Rules 3 and 6 of the Rules and also entitled to continue in service for some more years, whereas the petitioner-management terminated (retired) the services of the workmen on the basis of the dates recorded in the service registers. The Rules have come into effect in the year 1960 and the workmen were made to retire thereafter. Except saying that the workmen made some representations just before their retirement, no other material was placed before the Labour Court to come to conclusion that the workmen had raised their objections with regard to recording of their ages in the service registers at the time of their appointment.

In the counter-affidavit filed before the Labour Court, the petitioner-management asserted that in the year 1959, the age of the workmen was recorded properly and they were literate as they have signed in English and the management has scrupulously followed the procedure and retired them from service as per Rules. Therefore, the question of terminating the services of the workmen by the management, without following the formalities does not arise. The letters of retirement were also issued well in advance and before issuing them, there was no representation pending with the management. Further, the guidelines laid down by the Joint Bipartite Committee for Coal Industry are not applicable in the case of workmen for determination of their age. On the basis of the evidence placed before it, the Labour Court came to the conclusion that the workmen were not referred to the Medical Board for assessing their age, which is required under Rule 3(iv) (vi) and the same reads as follows:-

> "In case of employee already in service of the date of the issue of this circular, their age should be determined in accordance with the provisions of this Rule. The work should be completed within a period of 12 months from the date of issuing of this Circular and in case of illiterate employee the declared date of birth shall be recorded by a senior employee and witnesses by another employee".

It is clear from the counter-affidavit filed by the management before the Labour Court that representations of the workmen were not available on record. But, the management noticed that there were no such representations made by the workmen when similar workmen were sent for assessment of their age as per Rules, which came into force in 1960. The workmen kept quiet for a long time and only when they were served with the retirement notice, they had raised the issue of age determination, which was taken up by the union and the Labour Court mechanically passed the impugned orders holding that the workmen were not sent for medical examination for determination of their ages as

contemplated under the Rules, and therefore, their retirement from service is bad in law.

It may be noticed that even according to the workmen, they retired from service long back and the dispute was referred to the Labour Court in the year 1989 and the matter was decided in the month of March/April 1994. The claim made by the respondent-workmen is not only belated, but also there was no proper representation made at the appropriate time by the respondent-workmen, and as such, the findings of the Labour Court that the workmen are entitled to back wages etc., are arbitrary and illegal.

Therefore, the awards passed by the Labour Court in all the three Industrial Disputes are liable to be set aside and accordingly set aside. However, any amount or service benefits already paid to the workmen pursuant to the awards passed by the Labour Court shall not be recovered from them.

Accordingly, the writ petitions are allowed. No order as to costs.

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09-12-2004.

Lrkm.

That Rule Nisi is made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday_the ninth day of December Two thousand and Four.

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ASSISTANT REGISTRAR

To

1. The Presiding Officer, Industrial Tribunal-I,
   Chandra Vihar, M.J. Road, Hyderabad.

2. The General Manager,

Singareni Collieries Company Ltd.,

Bellampalli, Adilabad District.

3. The Joint Secretary,

A.P.Collieries Mazdoor Sangh (INTUC)
The Workmen of Singareni Collieries Company Limited,

Bellampalli, Adilabad District.

4 . Two CCs to Government Pleader for Labour,

High Court Buildings, High Court of A.P., Hyderabad (O.U.T).

5. 2CD copies.